



Health Services

LOS ANGELES COUNTY

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To ensure access to high-quality, patient-centered, cost-effective healthcare to Los Angeles County residents through direct services at DHS facilities and through collaboration with community and university partners.



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April 22, 2014

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL OF MEMORANDUM OF UNDERSTANDING WITH THE
REGENTS OF THE UNIVERSITY OF CALIFORNIA FOR THE
SHARING OF ELIGIBLE PROFESSIONAL INCENTIVE PAYMENTS
UNDER THE HEALTH INFORMATION TECHNOLOGY FOR
ECONOMIC AND CLINICAL HEALTH ACT
(2ND AND 5TH SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

Request approval of a Memorandum of Understanding with the Regents of the University of California for the sharing of Electronic Health Record incentive payments assigned to eligible professionals under the Health Information Technology for Economic and Clinical Health Act.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and authorize the Director of Health Services (Director), or his designee, to execute a Memorandum of Understanding (MOU) with The Regents of the University of California, for the sharing of Electronic Health Record (EHR) incentive payments assigned by eligible professionals under the Health Information Technology for Economic and Clinical Health (HITECH) Act, effective upon Board approval through December 31, 2021.
2. Delegate authority to the Director or his designee, to execute future amendments to the MOU to incorporate provisions consistent with County ordinance, Board policy, and State/federal requirements, subject to review and approval by County Counsel, with notice to your Board and the Chief Executive Office (CEO).
3. Delegate authority to the Director of Health Services (Director), or his designee, to execute agreements with eligible UCLA

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

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Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

professionals to assign their EHR incentive payments to DHS, and permit a one-time only reimbursement, up to \$1,500, to each EP, to be applied toward the purchase of an electronic device and other DHS-approved technology.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

Approval of the first recommendation will allow the Director to execute the MOU, substantially similar to Exhibit I, with The Regents of the University of California on behalf of the University of California, Los Angeles (UCLA). The MOU will generate revenue to partially offset the development and implementation costs of the Online Real-time Centralized Health Information Database (ORCHID), the County's EHR system.

Under this MOU, DHS and UCLA will share Medicaid or Medicare EHR incentive payments received from eligible UCLA physicians and other health care professionals (hereafter "Eligible Professional" or "EP") providing care at both DHS and UCLA medical facilities. The MOU also requires both parties to work collaboratively to identify potential EPs, facilitate the EP's assignment of incentives to DHS, and reconcile the data for calculating overall "meaningful use" for each provider on an annual basis.

Approval of the second recommendation will enable the Director, or his designee, to amend the MOU to ensure consistency with County, State, or federal requirements.

Approval of the third recommendation will enable the Director, or his designee, to contract with eligible UCLA professionals to assign their EP incentive payments to DHS to provide needed funding for the ORCHID implementation.

Implementation of Strategic Plan Goals

The recommended actions support Goal 2 (Fiscal Sustainability) of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

EPs can receive up to \$44,000 through the Medicare EHR Incentive Program or up to \$63,750 through the Medicaid EHR Incentive Program. The last year that EPs can receive these payments is 2021. For Calendar Year 2014, DHS projects 134 UCLA EPs who could provide \$2,847,500 in shared incentive funds, and a maximum of \$8,542,500 if these EPs can meet all the technology meaningful use requirements.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The HITECH Act of 2009 established the Medicare and Medicaid EHR Incentive Programs, which provide financial incentives for the "meaningful use" of certified EHR technology to improve patient care. To receive an EHR incentive payment, providers must demonstrate "meaningful use" of their EHR by meeting thresholds for a number of objectives established by the Centers for Medicare & Medicaid Services. The Act also permitted EPs to assign their incentives to a health care organization with a certified EHR system.

Since the Department has incurred the entire cost of installing and implementing ORCHID, and will assist the individual EP with demonstrating meaningful use each year, the Department feels that assignment is an appropriate way to recoup some of the costs associated with equipping its clinics and EPs with certified EHR technology.

County Counsel has approved Exhibit I as to form.

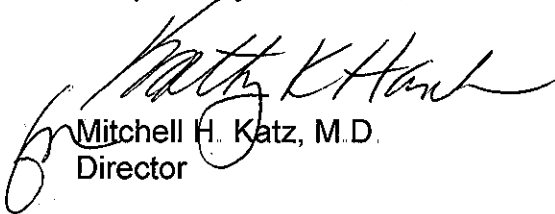
CONTRACTING PROCESS

Not applicable.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommendations will enable the County to partially offset costs associated with ORCHID through the assignment of EHR incentives to DHS from eligible UCLA professionals providing care at DHS facilities.

Respectfully submitted,


Mitchell H. Katz, M.D.
Director

MHK:ck

Enclosure

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this 28th day of October, 2013,

by and between COUNTY OF LOS ANGELES
(hereafter "County"),

and THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA
(hereafter "Regents").

WHEREAS, the County and the Regents historically have affiliated for the purpose of providing training and educational experience for medical students, post-graduate trainees and others attending the University of California at Los Angeles' Geffen School of Medicine; and,

WHEREAS, this affiliation, which is memorialized through a separate Medical School Affiliation Agreement, encompasses a variety physician services provided at facilities operated by the County of Los Angeles through its Department of Health Services; and

WHEREAS, in 2009, the federal government enacted the American Recovery and Reinvestment Act, including the creation of Medicare and Medicaid incentive payments under Title XIII of ARRA, commonly known as the "HITECH Act," to promote the adoption and "meaningful use" ("MU") of certified electronic health record ("EHR") technology by hospitals and certain Eligible Professionals ("EPs"); and

WHEREAS, the HITECH Act addresses incentives available for EPs under both Medicare and Medicaid, with incentives to be elected by and paid directly to the individual EPs who may elect voluntarily to assign their incentive payment to their employer or to an entity with which they have a contractual arrangement allowing the employer or entity to bill and receive payment for the EP's covered professional services; and

WHEREAS, the Regent's EPs have previously assigned to DHS the right to bill and receive payment for all services performed by the Regent's EPs at DHS facilities, and the Regent's EPs have agreed not to bill any payor or patient for any services; and

WHEREAS, both the County, through DHS, and the Regents, through its UCLA Medical Centers at Westwood and Santa Monica ("UCLA Medical Centers"), have EPs who are eligible to pursue either Meaningful Use incentives at either location but not at both locations; and

WHEREAS, the parties wish to memorialize their agreement to share certain of those Medicaid or Medicare EP incentive payments for a cohort of EP staff who provide care at both DHS facilities and at UCLA Medical Centers.

NOW, THEREFORE, the parties hereby agree as follows:

1. This Memorandum of Understanding ("MOU") shall be effective upon date of Board approval through December 31, 2021.

2. Annual Staff Review: On an annual basis during the term of this MOU, the parties shall review the staff of DHS and the UCLA Medical Centers to determine eligibility of EPs who may be newly eligible or ineligible for the EHR Meaningful Use ("MU") program. Each party will update the other party about any changes.

3. Registration. If an EP is found to be newly eligible for Medicaid incentive program at DHS and for the Medicare incentive program at UCLA Medical Centers then UCLA will turn over information of that provider to DHS so that they can enroll the EP in the DHS' group-level eligibility through the following steps.

- a) UCLA will supply DHS with its EPs' National Level Registry (NLR) and, if applicable, State Level Registry (SLR) account information, and all other information necessary to register the EPs for the MU program, to the extent such information is available and in accordance with applicable law.
- b) UCLA will notify the EPs that the County will be claiming them for their group. The County will cause each EP to enter into an assignment agreement, in a form and manner mutually agreed to the parties, pursuant to which each EP agrees to assign his or her EHR incentive payments to DHS and cooperate with the EHR registration process.
- c) UCLA will have registered these EPs at the Federal program. DHS will then register these EPs into the Medicaid program at NLR and use group eligibility at the SLR. DHS will change the payee TIN to the County at NLR.
- d) EPs (other than physician residents) who are determined by DHS to qualify for EHR incentive payments and who successfully complete the EHR registration process will qualify for participation in DHS's technology reimbursement program.

If an EP is eligible for the Medicaid incentive programs at both sites, and they have already been registered by UCLA, they will remain registered at UCLA. This does not affect the formula of how the incentive money will be split.

If an EP is eligible for the Medicaid incentive program at DHS and the Medicare incentive program at UCLA, and information regarding the EP is not provided to DHS for registration (or the EP is not otherwise successfully registered by DHS for the Medicaid EHR incentive program), then UCLA agrees to split any Medicare incentive payments its receives on account of such EP in accordance with the formula provided below.

Residents and fellows who are eligible for the Medicaid incentive program at DHS but who are not eligible for the MU program at UCLA Medical Centers will not be registered at or solicited for registration by DHS unless DHS registration of the resident would not result in a reduction of the total amount of incentive payments that the resident would be eligible to receive at any future time after their graduation from an ACGME-accredited training program (i.e. the timeline for incentives will run out after their graduation). This will allow the residents and fellows to be eligible for the MU incentive program upon completing their training program

4 Attestation: Each DHS location where the EPs practice will facilitate the EP's registration in the Medicaid EHR incentive program. Up until now, the deadline for attestation for the MU program has been February 28 of the following year (for the Medicare MU program) and March 31 (for the Medicaid MU program). To accommodate these timeframes, each party will give a report to the other party by January 15 of the following calendar year (or such other date as mutually agreed upon by the parties). For example, the parties will exchange reports for calendar year 2015 by January 15, 2016. Then, each party will use the data for the combined totals for purposes of MU registration and attestation as soon as possible thereafter. Each party will notify the other site when they have completed the attestation for an EP. Each party site will notify the other party if they encounter unforeseen barrier and the parties agree to cooperate in good faith to resolve the barrier.

5. Formula for Sharing First Year Medicaid MU Program Adoption Implementation Upgrade (AIU) EP Incentive Payments:

For EPs who are eligible for AIU at both UCLA Medical Center and at DHS, the incentive money will be split 50/50 by both locations. For EPs who are eligible for AIU only at DHS, but not at UCLA Medical Centers, UCLA Medical Center and the County will also split the incentive payments 50/50.

6 Formula for Sharing MU EP Incentive Payments (both before and after the County implements their EHR):

Following the first year AIU payment, UCLA Medical Center and the County will split any subsequent EHR incentive payments according to the number of Meaningful Use patient visits for each provider at each site for the entire calendar year. This consists of face-to-face encounters such as office visits and consult visits, and it excludes non face-to-face encounters such as telephone visits. This is the denominator used for the calculation of the AVS objective. Under applicable MU regulations, the parties acknowledge that at least 50% of all patient encounters must occur at a location with certified EHR.

Because DHS *may not* be able to accurately report this data from their administrative system, they will review charts for all EPs for at least 30 days of the year. The total number of visits for the calendar year will be extrapolated from this amount. For example, if DHS reviews the data for 30 business days, and there are 220 business days in the year, then the number of identified visits will be multiplied by 220/30.

Any incentive money will be split in proportion to the number of visits of each provider at each site. For example, if the EP has 200 visits at the County and 100 visits at UCLA Medical Center, then $[200/(200+100)] = 2/3$ of the incentive money will be given to DHS and $1/3$ of the incentive money will be given to the Regents.

If the EP fails MU, there is no incentive money to be shared.

If the EP meets the benchmark of MU at one site, but not the other site, the incentive money will still be shared proportionally according to the number of visits at each site.

In the event that any MU incentive funds shared hereunder are later determined by the applicable MU program to have been erroneously paid to either party, the parties agree to share in any repayment to the MU program, with each party contributing an amount equal to the percentage of such payment that it received.

7. Annual Reconciliation of Meaningful Use Milestones: The parties shall designate a person at UCLA Medical Center and at DHS to ensure and reconcile the data for calculating overall Meaningful Use performance for a provider. This designation and reconciliation shall occur on an annual basis during the term of this MOU.

8. Payment: No later than sixty (60) days after the Review of Outpatient Clinic Sessions pursuant to Paragraph 3 and the determination, pursuant to Paragraph 6, of the appropriate share of Medicare or Medicaid EP incentives, if any, either Regents shall remit payment to the County at the following address [insert address] or DHS shall remit payment to the Regents at the following address.

9. Mutual Cooperation: The parties acknowledge that mutual cooperation and assistance are essential to the parties' performance under this MOU. Therefore, it shall be the duty of both parties to make all good faith efforts to fully cooperate in the performance of this MOU and to take all such other actions as are necessary to advance the goals of the MOU. In the event of any audit by the MU program, the parties agree to cooperate in good faith in their response.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this MOU to be executed by its Director of Health Services, and the Regents have caused this MOU to be executed on its behalf by its duly authorized officer, the day, month, and year first above written


COUNTY OF LOS ANGELES

By _____

Mitchell H. Katz, M.D.
Director

(AFFIX CORPORATE SEAL)

Regents of the University of California

By 

J. Thomas Rosenthal, M.D.
Chief Medical Officer

APPROVED AS TO FORM

John Krattli, County Counsel, County of Los Angeles
Jane E. Boubelik, Chief Counsel, UCLA Health Sciences